

THE FIRST PART OF THE HISTORY OF THE
REIGN OF CHARLES THE FIRST
BY JOHN BURNET
OF THE UNIVERSITY OF OXFORD
IN TWO VOLUMES
THE FIRST
LONDON, Printed by J. Streater, at the Sign of the Gun, in St. Dunstons Church-yard, 1679.

THE SECOND PART OF THE HISTORY OF THE
REIGN OF CHARLES THE FIRST
BY JOHN BURNET
OF THE UNIVERSITY OF OXFORD
IN TWO VOLUMES
THE SECOND
LONDON, Printed by J. Streater, at the Sign of the Gun, in St. Dunstons Church-yard, 1679.

THE HISTORY OF THE
REIGN OF CHARLES THE FIRST
BY JOHN BURNET
OF THE UNIVERSITY OF OXFORD
IN TWO VOLUMES
THE FIRST
LONDON, Printed by J. Streater, at the Sign of the Gun, in St. Dunstons Church-yard, 1679.

THE SECOND PART OF THE HISTORY OF THE
REIGN OF CHARLES THE FIRST
BY JOHN BURNET
OF THE UNIVERSITY OF OXFORD
IN TWO VOLUMES
THE SECOND
LONDON, Printed by J. Streater, at the Sign of the Gun, in St. Dunstons Church-yard, 1679.

C

E

up

B

ge

es

m

of

pr

th

in

for

m

ev

ha

in

be

op

of

co

we

vic

fro

of

the

for

Cre

ter

Th

th

tin

pu

pe

wh

cor

in

tin

con

pro

it

lat

use

be

Ch

wit

In

the

cor

Act

lian

the

for

ned

I

that

was

ther

of

CHURCH OF SCOTLAND'S ENDOWMENT.

Editor of THE CITIZEN.

SIR,—Monday the Senate will be called upon to pronounce on the Temporalities' Bill, and we earnestly ask honourable gentlemen to weigh well its conditions, especially as the Parliament of the Dominion has taken upon itself the duties of a court of law, without following its procedure, but is deciding a case upon the speeches of counsel. In a matter so important as this, we may be pardoned for saying that there should have been a most careful examination and sifting of evidence. So far as we can see, there has been no such examination, all the information afforded the committee being the speeches of the promoters and opposers of the bill. As representatives of the Presbyterian Church of Canada in connection with the Church of Scotland we believe it to be our duty to give our view of the position of the question.

The Temporalities Fund was formed from the moneys paid to the ministers of our church, as a commutation of their personal claims upon the Crown for stipends for which the faith of the Crown was pledged to them as ministers of the Church of Scotland in Canada. The payments for which the faith of the Crown was thus pledged being extinguished, the moneys ceased to be public funds and became private property, and were by the clergymen to whom they were so paid, placed in one common fund for the purposes expressed in a certain agreement made at the time of commutation, the desire of the commuting ministers being to make a provision for their church for all time, it being expressly agreed and stipulated that *only the interest* should be used, and that the beneficiaries were to be ministers of the Presbyterian Church of Canada in connection with the Church of Scotland. In order to strengthen and maintain the trust thus created, an Act of Incorporation, called the Temporalities' Act, was obtained in 1858 from the Parliament of Canada, and under this Act, the fund was, until 1875, administered for the benefit of the church in connection with the Church of Scotland.

In 1874, a majority of the Synod of that church determined to join certain other churches, and in 1875 that purpose was carried out by the majority. Whilst these things were going on, a majority of the Synod supported by

the union, and, as stated, have been recognized by the Church of Scotland as being in the old relation. The highest court of Ontario has declared them to be the representatives of the old church. What follows? The Privy Council, in giving judgment; say "The fund (this Temporalities Fund) belongs to those who represent the Presbyterian Church of Canada in connection with the Church of Scotland, and the common sense statement of the position of the churches shows that the minority never gave up or left their church, while the majority went into a new church. The courts declare this to be the case, and the conclusion is inevitable that the minority are the rightful owners of this fund. Believing this to be the true state of the case, are the honourable senators prepared to declare a fund which is evidently the property of the representatives of the Church in connection with the Church of Scotland to be the property of a body of men who have been adjudged by the highest court of Ontario to have left that connexion? Are they prepared to pass a statute declaring that a fund which before and up to the present date was vested in the property of those who adhered to the old church shall, by an Act passed in 1882, become the property of those who in 1875 forfeited all right to it; nay, more, that the fund shall be given to men whose only claim to it is that they were a majority, and voted to put into their own pockets money devoted and given, as a perpetual endowment for the church in connection with the Church of Scotland, or, to use the words of the ministers who gave the fund, it was to be "for the general and permanent good of the people committed to their charge."

We would further draw the attention of the honourable gentlemen to the fact that they will, if they pass this bill, sanction everything done by the Temporalities Board, since 1875. What has been done no person knows, except that the capital (which under the Trust was in no case to be touched) has been depleted in the last seven years to the extent of about \$135,000—and that it is being drawn upon to the extent of \$20,000 per annum; the charges on it now being \$40,000 per annum and the receipts about \$20,000 per annum, as per last statement of the Board. Should the bill pass in its present shape, the Legislature will sanction that which the Privy

100
ne
the
wa
the
of
nu
thi
we
fus
sla
t.m
nee
and
rec
ing
of t
bois

T
par
sen
sett
from
tee
Dot
decl
who
of C
of
unio
of th
the
the
tical
Ca
of S
tegr
lyte
up t
App
lost
Chur
the
other
case
of O
titled
being
the
conn
If the
chur
Chur
as the
union
necti
But e
to sa
unite
his t
conn
in
terian
is a
same
as wa
On th
alway
old co

for the benefit of the church in connection with the Church of Scotland.

In 1874, a majority of the Synod of that church determined to join certain other churches, and in 1875 that purpose was carried out by the majority. Whilst these things were going on, a majority of the Synod, supported by very large numbers of the church, protested against this union, and when the majority went to consummate it, positively refused to go with them, and have ever since refused to do so. They have continued the Synod of the church in connection with the Church of Scotland, and both Synod and church have been recognized by the mother church as being in the old relations, whilst speaking of those who have gone into union, as being "in the new state of things."

The question as to which of the two parties now before Parliament represents the old church is what must be settled. The importance of this arises from the fact that the Judicial Committee of the Privy Council, in the case of *Dobie vs. the Temporalities Board*, have declared that the fund belong to those who represent the Presbyterian Church of Canada in connection with the Church of Scotland. Those who went into union say they are the church, because of their having made a declaration, at the time they were preparing to go to the Skating Rink, that they were "identical with the Presbyterian Church of Canada in connection with the Church of Scotland." But they became an integral part of a body called "The Presbyterian Church in Canada" they gave up their old name, and the Court of Appeal in Ontario has decided that they lost their identity as the Presbyterian Church of Canada in connection with the Church of Scotland, while, on the other hand, the same court in the same case (*McPherson vs. McKay*, 4 appl Reps. of Ontario), declared the plaintiffs entitled to hold their church and manse as being representatives and belonging to the Presbyterian Church of Canada in connection with the Church of Scotland. If the majority who went into a new church are still in connection with the Church of Scotland, in the same manner as they were before they went into the union, then the united church is in connection with the Church of Scotland. But even Principal Grant will hesitate to say that the Free Church and the united Presbyterians, with whom he and his brethren have joined, are in such connection, and if these are not in connection, then the Presbyterian Church in Canada, which is a united church, cannot be in the same relation to the Church of Scotland as was the old church before the union. On the other hand, the minority have always maintained their name and the old connection, have refused to go into

\$135,000—and that it is being drawn upon to the extent of \$20,000 per annum; the charges on it now being \$40,000 per annum and the receipts about \$20,000 per annum, as per last statement of the Board. Should the bill pass in its present shape, the Legislature will sanction that which the Privy Council ordered should not be done, namely, the payment out of the Fund of the law expenses illegally incurred by the Board, which the Privy Council ordered should be paid by the members of the Board individually; one of the charges in the statement of the Board of Trustees for 1881 being a payment of £100 sterling to Mr. J. S. Morris for legal expenses, the further sums of \$2,000 and \$1,000 being charged in previous reports for the same purpose. In view, then, of the fact that to pass this bill is to destroy the Fund and thereby deprive the surviving founders of their rights and income, to take away the rights of the clergymen of the future and to weaken the church by withdrawing the means placed in its hands for the extension of religious ordinances it is plain that it defeats the intent of the founders. It is the declaring by Parliament that property held and vested by virtue of the law that existed in 1875, a law decided by the Privy Council to be still in force, shall be taken from its owners by an Act of this Parliament and given to parties who have ceased to be either ministers or members of the church for whose benefit the fund was constituted.

In the name of the Presbyterian Church of Canada in connection with the Church of Scotland, of which we are representatives and members, we appeal to the Senate of the Dominion to maintain our rights. If the laws of this country are to be held sacred, if the rights of the property of the people are to be respected, then Parliament cannot and will not pass this bill. We hold and believe we have proved this property to belong to our church; the courts have declared our claim to be just. We deny the right of Parliament to take property from our church by a private bill; if taken by a public Act, that Act must provide for immediate compensation.

We appeal to the Senate of this Dominion, a body selected from the people, for their age, their wisdom, and their stake in the country, to protect our rights, trusting to their sense of justice and believing that they will let justice be done though the heavens should fall.

T. A. McLEAN,
DOUGLAS BRYMNER,

Representatives of the Presbyterian Church of Canada in connection with the Church of Scotland.